

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. M-06/09-348  
 )  
 Appeal of )

The petitioner appeals the decision by the Department for Children and Families, Family Services Division denying the petitioner's request to expunge a report of risk of harm from the child abuse registry based on the petitioner's failure to verify that she has successfully completed counseling and substance abuse treatment programs. The issue is whether the Department abused its discretion in not removing the petitioner's name from the child abuse registry.

There is no dispute that in August 1998 the Department substantiated a report that the petitioner had abused her then-four-year-old daughter by placing her at risk of harm in failing to obtain timely medical treatment for her after she had been hospitalized for dehydration and malnutrition. It appears that the petitioner's actions, or inactions, at the time were due, at least in part, to her emotional and substance abuse problems.

In its decision not to expunge the report from its registry the Department noted that the petitioner has failed to produce specific evidence of rehabilitation. In telephone status conferences held on October 13 and November 9, 2009 the petitioner admitted that she does not have specific and timely information regarding her efforts to rehabilitate herself. Other than letters of general support from family and friends, the only evidence remotely medical in nature is a letter from a therapist she last worked with in a Suboxone program over six months ago stating only that the petitioner "is determined to turn her life around" and that she would "benefit from any support that would put her one step further on the road to recovery".

Unfortunately for the petitioner, the Board's authority in reviewing Department decisions in regarding expungement requests is limited. 33 V.S.A. § 4916c(e) provides that *"the sole issue before the board shall be whether the commissioner abused his or her discretion in denial of the petitioner for expungement. The hearing shall be on the record below, and determinations of credibility of witnesses made by the commissioner shall be given deference by the board."*

Inasmuch as the petitioner has admittedly failed to provide the Department with persuasive medical verification

of her alleged rehabilitation, it cannot be concluded that the commissioner has abused his discretion in denying the petitioner's request to expunge the report in question from the Department's registry.

ORDER

For the above reasons the Department's decision refusing to expunge the report of child abuse from its registry is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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